IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5005 OF 2006

Sou Shamla Nandkumar Jadhav ...Petitioner

v/s

Deputy Registrar, C.S. Miraj and ors. ...Respondents

Mr Umesh Mankapure for Petitioner.

None for Respondents.

CORAM : D.K. DESHMUKH J.

DATE : 6TH JULY 2007.

P.C. :-

1. The respondent No.2 - Co-operative Society had initiated proceedings against the petitioners for obtaining recovery certificate on allegation that they have taken loan from the Society which they have not repaid. It is the claim of the petitioners that they had filed a dispute before the Co-operative Court claiming that the loan which according to the Society was advanced to them was not actually received by them. They filed the revision application before the Joint Registrar, Co-operative Societies, Kolhapur in relation to the proceedings for recovery certificate which is pending. It is their case before the Joint Registrar, Co-operative Societies, Kolhapur that because their dispute is pending, proceedings for recovery certificate should be stayed. The conduct of the petitioners filing the dispute and making an application for stay of the recovery proceedings is obviously malafide. In proceedings for recovery certificate, the defence that the loan has not actually been received by them is open to them and can be raised by them, but instead of doing that, they took out these proceedings. The entire action of the petitioners is malafide. Therefore, in the discretionary jurisdiction of this Court, this

petition cannot be entertained. It is rejected.

. Parties to act on the copy of this order duly authenticated by the Sheristedar / Private Secretary as true copy.

. Certified copy expedited.